

Laws of child abuse in Indian perspective: A review

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ABSTRACT

Child abuse is harm or neglect toward a child by another person, whether an adult or child. It is common in all cultural, ethnic, and income groups. It can be physical, emotional-verbal, sexual, or even neglect. Abuse may cause serious injury and may even result in the death of the child. The aim of the paper is to review the child abuse laws prevalent in our country. Literatures were collected from the Google Scholar and E-Journals of legal services to get a sight of the child protection laws and to enlighten indigent children. Even though our country has different sections in the Indian penal code and many laws for the protection of children, still at the zeroth hour many corrupt rises.

Keywords: Child abuse, child rights, laws, sexual abuse

Introduction

“Children do not constitute anyone’s property: they are neither the property of their parents nor even the society. They belong only to their freedom.”

Child abuse is a detriment to, or neglect of, a child by another person, whether adult or child. Child abuse happens in all cultural, racial, and income groups. Different types of child abuse are physical, emotional-verbal, sexual, or can be child neglect. Abuse may beget serious injury to the child and may indeed affect death.^[1]

The World Health Organization (WHO) defines child maltreatment as “all forms of physical and emotional ill-treatment, sexual abuse, neglect, and exploitation that results in actual or potential harm to the child’s health, development or dignity.”^[2]

Child abuse laws live on the civil, state, and local levels. More than 250 statutes in India, going by the Union and State Governments,

affect children. In addition to those child protection laws, we have several criminal laws which give protection to children. These statutes include the Indian Penal Code (IPC), 1860, Indian Evidence Act, 1872, and Criminal Procedure Code, 1973.^[3]

The main aim of our study is to review the laws for the protection of children and to give awareness about those laws.

Giving awareness to the common people that, offences against children are punishable, is the only way to stop the crimes against children otherwise our state may rise to the top most position in the cases of child maltreatment.

Materials and Methods

Google Scholar, E-Journals of legal services PubMed, Medline, and Web of Science databases were screened for preparing this narrative review article. Articles other than those in the English language were excluded. For the review, the complete texts of 51 papers were acquired, with 20 of them being included in the review. Only articles that were pertinent to the review’s substance were included. Keywords, such as child abuse, laws, the IPC, child rights, protection act, and sexual abuse, were used to search the databases. Articles based on case reports, reviews, and cross-sectional studies were all included in the literature.

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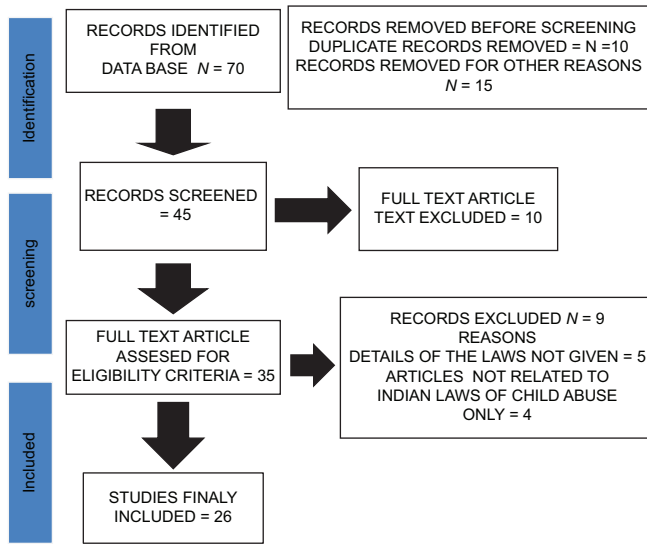
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Child Protection Laws in India

According to The Constitution of India, Article 15 (3), State makes special provisions for children.^[4] List of child protection laws prevalent in our country is cited in [Table 1].

Children occupy a special place in the law. Legal systems presume that children do not have the mental capacity to care for themselves or make their own choices. Instead, many of the choices a child has are often made by the child’s parent, legal guardian, or custodian. Hence, the need for the protection of their rights and the need for their protection against abuse is the responsibility of each and every individual.

Child abuse is a very serious charge, one that can not only result in criminal or civil sanctions but can also lead to social exclusion and loss of reputation. State laws on child abuse can be very difficult to apply in every situation, which is why anyone facing child abuse charges should consult a qualified local attorney as soon as possible. Only an experienced criminal defense attorney can give legal advice about child abuse in that particular case.

Juvenile Justice Act

The Apprentice Act was the primary Act that laid the inspiration for the Juvenile Justice System in India in 1850. First Juvenile Justice Act, came into existence in 1986. With the enactment of the Juvenile Justice Act, the weal approach was replaced by the justice approach. The Act handed for the care, protection, treatment, development, and recuperation of neglected or tardy juveniles.

The Juvenile Justice (Care & Protection of Children) Act of 2000 was in accordance with UN Convention on the Rights of the Child (UNCRC) and did down with the age difference between boys and girls. The Juvenile Justice (Care & Protection of Children) Act, 2015 is the umbrella Act on child protection.

Laws	Year	Punishment
Juvenile justice act [amended as] Juvenile justice act care and protection Juvenile justice act care and protection for children Indian penal code,	1986 2000 2015	Imprisonment up to 5 years
	1860	Death penalty. Life imprisonment. Imprisonment. Rigorous/ simple. Forfeiture of property/ Fine.
Protection of children from sexual offenses act	2012	The minimum term of rigorous imprisonment is up to 10 years
Immoral traffic act	1987	1-2 Years of rigorous imprisonment and a fine of up to rs 10,000.
The criminal law (amendment) act,	2013	Imprisonment to 3 years
Commission for protection of child rights	2005	
Child marriage act	1927	2 Years of rigorous imprisonment or with a fine which may extend to 100,000 or with both.
Child labor (prohibition and regulation) act	1986	Imprisonment between 6 months and 2 years (from 3 months to 1 year) or a fine of rs 20,000-50,000 (from rs 10,000 to 20,000) or both.
Right to education (rte) act	2009	Fine which may extend to rs 25,000 for the first contravention and rs 50,000 for each subsequent contravention.

Under this Act, the term juvenile does not only describe any order of youngsters. It caters to their requirements through care, protection, development, treatment, and social reintegration, through its child-friendly approach by addressing matters in the best interest of youngsters.^[5]

The Juvenile Justice Act: Principles in Practice

Children meet with their families every month and exchange a weekly phone call when possible. Juvenile offences varies from countries [Table 2].

Children deposit complaints and suggestions in a dedicated box which are reviewed weekly during the staff meeting in presence of the child representative.

Children are supervised round the clock by competent, reliable, and trained adults.

Children are supervised at night by dedicated night staff who complete half-hourly checks during this most vulnerable time.

Girl children are always surrounded by at least one female staff.

JJ Act in India is different from other countries?

Indian Penal Code, 1860

According to Section 82 of the IPC, nothing is an offence that is an offence done by a child under the age of 7 years and Section 83 states that, nothing is an offence that is done by a child above 7 years of age and under 12.^[7]

He is incapable of understanding good and bad, which means he/she is totally Dole incapx.

Country	The minimum age for the Juvenile at which he can be charged with an offence
United States of America	the age ranges from 6 to 10 years
United Kingdom	the age limit is 10 years
South Africa	the age is often years
France	by offence committed
Canada	after the age of 12 years.
Germany	at the age of 14 years.
India (Juvenile Justice Act 2015)	Under IPC after the age of 7 years.
Country	Type of offences for which the minor can be tried
United States of America	Aggravated sexual abuse, murder, assault, robbery, firearms offences, and drug
United Kingdom	Murder, rape, causing any explosion likely to endanger life or property
South Africa	robbery, murder, and rape
France	Armed robbery, murder, rape, and drug offences
Canada	Serious bodily harm to any person, murder, and aggravated sexual assault
Germany	Abuse of persons who are incapable of resistance, or sexual abuse, or child abuse leading to death
India (Juvenile Justice Act 2015)	“Serious offence (punishment 3-7 years, e.g., cheating, counterfeiting) or heinous offence, (punishment more than seven years, e.g., murder, rape, robbery)” ^[6]

Sections	Offence
Section 305	Abetment of Suicide if any person under the age of 18 years of age commits suicide and whoever abets them to does such an act shall be punished under the punishments under the act
Section 315	Act of killing an infant
Section 316	Whoever does the act of causing death of quick unborn child by act amounting to culpable homicide
Section 317	Abandonment of a child under 12 years, by a parent or person having care of it
Section 369	Punishment of kidnapping a child under the age of 10 with an intention to steal from its person
Section 366A	Punishment for the Procreation of minor girls (for inducement to force or seduce, to illicit intercourse)
Section 372 and 373	Punishment for buying, selling, or attaining the possession of a person under the age of 18 at any age employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful purpose

Things like desertion of the child are usually seen in the cases of the female child only. This behavior and mindset which is spread in the society have to change and many reforms are being performed. The IPC in accordance with the legal code has recognized annoying types of offences that are performed against children. Minors are still prone and are exploited in the working of crimes. Therefore, strictly enforced mechanisms are to be used to counter the issue so as to make sure that the protection of infants and newborns and to ensure their safety of them. IPC consist of different sessions which stands for the protection of children as cited in [Table 3].

Child Marriage Act

Child marriage prevents a child from attending school and the child is forced into domestic chores and abuse. Child marriages are legally punishable, India has articulated its commitment to eliminating child marriage through numerous policies, laws, and programs, but the economic conditions of the parents or the myths that may be existing in the society make child marriages to still exist.

Rai Sahib Harbilas Sarda introduced the Child Marriage Restraint Bill in 1927, which set the minimum age of marriage at 14 years for girls and 18 years for boys. In 1929 British government enacted the Child Marriage Restraint Act, which was the first secular law to curb the practice of child marriage. In 2006 Prohibition of Child Marriage Act was passed. This act had increased penalties for conducting child marriages.^[8]

A widely publicized rape case in Delhi in 2012; the Nirbhaya case played an important role in influencing the Indian government to increase the age of sexual consent to match the age of marriage.^[9]

The government of India has proposed raising the minimum legal age of marriage for girls from 18 to 21 years. Currently, the minimum legal age for girls to marry is 18 years; for men, the corresponding age is 21 years. This is to overcome mental health problems, as per studies, so increasing the legal age shall reduce the possibility of mental health issues among young brides.

Finally, the decision is also projected as one affirming the principle of gender neutrality, by making the minimum marital age for women the same as that for men.^[9]

Child Labor (Prohibition and Regulation) Act 1986

According to Article 24 of the Indian constitution “No child below the age of fourteen years shall be employed to work in any plant or mine or waged in any dangerous employment.”^[10]

The child labor act exists in the country to date, but due to poverty or various unavoidable circumstances children are made to do menial jobs, and thus, this act gets violated. Child labor leads

to illiteracy and crimes. Cases of child labor that are reported get punished by the judiciary of different states, but unreported cases are far too many in India.

The Immoral Traffic (Prevention) Act (ITPA), 1987

Specialized legislation deals with trafficking in India, a country that receives, supplies, and transits multitudinous trafficked individuals. Criminalizing the act of prostitution begins in Sec. 7, where prostitution in or in the vicinity of public places is a punishable offense.^[11]

Different sections

The ITPA of 1986, colloquially also called PITTA, an amendment to the Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA), and the “child” under ITPA means a person who has not completed the age of 16 years and “prostitution” means the sexual exploitation or abuse of persons for commercial purposes.

Neither law prohibits prostitution per se, but both forbid commercialized vice and soliciting. Aside from lack of

enforcement, SITA is problematic in several ways. One of the negative drawbacks is that the prescribed penalties discriminate on the basis of sex: a prostitute, defined under SITA as always a woman, who is arrested for soliciting under SITA could be imprisoned for up to a year, but a pimp faces only 3 months.

Commissions for Protection of Child Rights (CPCR) Act, 2005

The NCPCR, which is under The Ministry of Women and Child Development, has the accreditation to assure that all: laws, policies, programs, and administrative mechanisms align with the child rights perspective as enthroned in the Constitution of India and also the UN Convention on the Rights of the Child different sections and articles under CPCR is listed in [Tables 4 and 5].^[11]

Right to Education (RTE) Act, 2009

Free and compulsory education for all children of India in the age group 6–14. Until the completion of elementary education, no child shall be held back, expelled, or needed to pass a board examination. If a child is above 6 years of age, has not been admitted to any school, or could not complete his or her elementary education, also he or she shall be admitted to the appropriate class for his or her age.^[12]

The Protection Of Children From Sexual Offences (POCSO) Act, 2012

An Act to hold on children from offenses of sexual assault, sexual importunity, and pornography and furnish for the establishment of Special Courts for the trial of parallel offenses and matters interconnected.^[6] POCSO qualifies penetrative sexual assault on a child below the age of 12 as exacerbated penetrative sexual assault, a crime punishable with a fine and a minimum term of rigorous imprisonment of 10 years, which can be extended to life captivity.^[4] Section 19 of the POCSO Act makes it obligatory for any person, including the child him/herself, to report that an offense is likely to be committed or has been committed.^[11]

Still, the crimes continue because of the lack of sexual education at home and in schools, or due to the unawareness of the severity of the punishment or the overconfidence of the abuser that this may go unreported due to the consequences that follow to the victim and their family. Thus, many an abuser goes scot-free.

Children Have Rights as Equal Citizens of India

The recognition of the child’s interests and their rights became a reality on 20 November 1989 with the adoption of the International Convention on the Rights of the Child which is the first international legally binding text recognizing all the fundamental rights of the child.^[13]

Agencies/campaigns/institutions for protection of children.

Table 4: Sessions according to CPCR

Section 3:	Stringent action and punishment for keeping a brothel or allowing premises to be used as a brothel
Section 4:	Living on the earnings of prostitution
Section 5:	Procuring, inducing, or taking a person for the sake of prostitution
Section 6:	If any person is found with a child in a brothel it shall be presumed, unless the contrary is proved, that he has committed an offence of detaining a person on premises where prostitution is carried on. The punishment consists of imprisonment of either description for a term which shall not be <7 years
Section 21:	Establishment of protective homes by the State Government

Table 5: Articles in CPCR

Article 14	The State shall not withdraw any person’s equality
Article 21	No person shall be deprived of his life or personal liberty
Article 23	Right to be protected from being trafficked and forced into bonded labor.
Article 46	Shows the right of weaker sections of the people to be protected from social injustice and all forms of exploitation.
Article 47	States the right to nutrition and standard of living and improved public health. ^[13]

Table 6: Different agencies and campaigns for the protection of children

Childline 1098	Government toll-free number^[14]
Justice for every child	National campaign ^[15]
Bachpan Bachao Andolan	Kailash Satyarthi in 1980 ^[16]
Bal mitra gram	Kailash Satyarthi in 2001 ^[17]
PANDA [Prevent Abuse and neglect through Dental Awareness]	Awareness organization ^[18]

The National Policy for Children (NPC)

On August 22, 1974 NPC was adopted by the Government of India. This policy relates children as a supremely important asset and makes the State responsible for providing them basic services, both before and after birth, during their growing years, and different stages of development.^[19]

CHILDLINE 1098

CHILDLINE is a national emergency toll-free number outreach service for the children in need of care and protection and is supported by the Ministry of Women and Child Development (WMCD), Government of India, and works in partnership with state governments, NGOs, Bilateral/Multilateral Agencies and Corporate Sector.^[14]

As of now, CHILDLINE is operational in 82 cities/districts in India. Under the XIth Plan CHILDLINE India Foundation has been mandated to extend the CHILDLINE service all over the country as part of the Integrated Child Protection Scheme of the Ministry of Women and Child Development.^[15]

The service focuses on the needs of children living alone on the streets, child laborers, domestic workers, runaway children, children of sex workers, and sexually abused children. Table 6 shows different agencies and campaigns that stands for the protection of children

Bachpan Bachao Andolan

It aimed to create a child-friendly society, where all children are free from exploitation and receive a free and quality education. Its main focus is on ending all types of labor, and human trafficking, as well as demanding the right to education for all children.^[16] CHILD HELPLINE NUMBER: 1800 102 7222 Anyone can call our helpline 24 × 7, reporting any form of abuse against children Email us: complaints@bba.org.in^[17]

BAL MITRA GRAM

An alternative and transformative grassroots solution to prevent child exploitation, the BMGTM model empowers children to take democratic actions to protect their rights and enables parents and other stakeholders to stand up for their rights and build a protective community.^[18]

Prevent Abuse and Neglect through Dental Awareness (P.A.N.D.A.)

Over 3 million reports of child abuse are recorded each year. According to state law, dentists in every state are required to report suspected cases of child abuse and neglect to authorities. The P.A.N.D.A. program aims to educate and help dental professionals, and others, about how to identify the warning signs of child abuse and neglect.^[20]

United Nations International Children's Emergency Fund (UNICEF)

UNICEF provides children with clean water, life-saving food and vaccines, education, and protection from violence than any other humanitarian organization. In 1949 the organization started its function in India with three staff members and 3 years later with an established office in Delhi. Currently, it advocates for the rights of Indian children in 16 states.^[21]

Child Welfare Committee (CWC)

It is mandatory to establish one CWC in each district^[21]

As pediatric dentists, awareness of these laws is important as they may be the first persons who encounter these children and can be instrumental in bringing them justice.

A child who is abused is more likely to abuse others as an adult so that violence is passed down from one generation to the next. It is therefore critical to break this cycle of violence, and in so doing create positive multi-generational impacts. Preventing child maltreatment, before it starts, is possible and requires a multisectorial approach. Effective preventive approaches include supporting parents and teaching positive parenting skills and by giving awareness to children and teachers about sexual abuse. Enhancing laws to prohibit sexual abuse and violation of child rights can go a long way in discouraging individuals from committing these crimes.^[22]

Discussion

India has one of the largest populations of children in the world—census data from 2011 shows that India has a population of 472 million children below the age of 18.^[22,23] Protection of children by the state is guaranteed to Indian citizens by an expansive reading of Article 21^[24] of the Indian constitution, and also mandated given India's status as a signatory to the UNCRC. India has a wide range of laws to protect children and child protection is increasingly accepted as a core component of social development. The challenge is in implementing the laws due to inadequate human resource capacity on the ground and quality prevention and rehabilitation services. As a result, millions of children are prone to violence, abuse, and exploitation.

The nation has a fairly comprehensive policy and legal framework addressing rights and protection for children, providing opportunities to ensure that all children have equal access to quality protection services. The core child protection legislation for children is enshrined in four main laws: The Juvenile Justice Act/Care and Protection (2000, amended in 2015); the Child Marriage Prohibition Act (2006); the Protection of Children from Sexual Offences Act (2012), and the Child Labor Prohibition and Regulation (1986, amended in 2016).

Over the past 5 years, notable efforts have been made to set up fast-track courts and deal with cybercrime against children and women. As pediatric dentists, we should be aware of these laws and orders because we may be the first person who encounters these children.^[25]

“All the crime is a kind of disease and should be treated as such” so educate and make aware our children that the country’s judiciary system is always there to protect them.

Conclusion

Child abuse and neglect can have ruinous and long-timeless goods on a child and can affect mischievous societal impacts,^[26] including high costs for services and increased involvement in the juvenile and criminal justice systems. However, communities can act to stem the goods of maltreatment and verily obviate it.

Our country’s judicial systems as well as the NGOs are working hard for the protection of our coming generations. Still, child maltreatment is reported as a result our country stands among the top 10 in the list.

Children are like wet cement whatever falls on them makes an impression, so we must make sure that their impressions are for a better tomorrow.

Key message

Child abuse and maltreatment are on the rise.

Educate and make aware our children that the legal service of our country is there for protection.

Support the law system by reporting the cases.

Primary care physicians and healthcare faculty and the pediatric dentist can play a delicate role in determining whether or not an incident of abuse has occurred.

Take home message

Adequate formal education, steer clear of the cultural myths, and the religious beliefs make aware of the society that all the offences against children are punishable and that our country’s judicial system stands with children.

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There are no conflicts of interest.

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